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WIPO PCT

INTERNATIONAL PRELIMINARY EXAMINATION REPORT



(PCT Article 36 and Rule 70)

Applicant's or agent's file reference 16.69723/001		FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)	
International application No. PCT/GB00/02226	International filing date (day/month/year) 08/06/2000	Priority date (day/month/year) 08/06/1999	
International Patent Classification (IPC) or national classification and IPC A61D7/04			
Applicant NYCOMED IMAGING AS et al.			

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.
2. This REPORT consists of a total of 6 sheets, including this cover sheet.
- ☐ This report is also accompanied by ANNEXES, i.e. sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).
- These annexes consist of a total of sheets.

3. This report contains indications relating to the following items:

- I ☒ Basis of the report
- II ☐ Priority
- III ☒ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- IV ☐ Lack of unity of invention
- V ☒ Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- VI ☐ Certain documents cited
- VII ☒ Certain defects in the international application
- VIII ☒ Certain observations on the international application

Date of submission of the demand 27/10/2000	Date of completion of this report 20.09.2001
Name and mailing address of the international preliminary examining authority:  European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465	Authorized officer Hedels, B Telephone No. +49 89 2399 2329 

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT**

International application No. PCT/GB00/02226

I. Basis of the report

1. With regard to the **elements** of the international application (*Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17):*

Description, pages:

1-19 as originally filed

Claims, No.:

1-21 as originally filed

Drawings, sheets:

1/6-6/6 as originally filed

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language: , which is:

- ☐ the language of a translation furnished for the purposes of the international search (under Rule 23.1(b)).
☐ the language of publication of the international application (under Rule 48.3(b)).
☐ the language of a translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
☐ filed together with the international application in computer readable form.
☐ furnished subsequently to this Authority in written form.
☐ furnished subsequently to this Authority in computer readable form.
☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. The amendments have resulted in the cancellation of:

- ☐ the description, pages:
☐ the claims, Nos.:

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- ☐ the drawings, sheets:
5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)):
(Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.)
6. Additional observations, if necessary:

III. Non-establishment of opinion with regard to novelty, inventive step and industrial applicability

1. The questions whether the claimed invention appears to be novel, to involve an inventive step (to be non-obvious), or to be industrially applicable have not been examined in respect of:
- ☐ the entire international application.
- ☒ claims Nos. 20,21.

because:

- ☐ the said international application, or the said claims Nos. relate to the following subject matter which does not require an international preliminary examination (*specify*):
- ☒ the description, claims or drawings (*indicate particular elements below*) or said claims Nos. 20,21 are so unclear that no meaningful opinion could be formed (*specify*):
see separate sheet
- ☐ the claims, or said claims Nos. are so inadequately supported by the description that no meaningful opinion could be formed.
- ☐ no international search report has been established for the said claims Nos. .
2. A meaningful international preliminary examination cannot be carried out due to the failure of the nucleotide and/or amino acid sequence listing to comply with the standard provided for in Annex C of the Administrative Instructions:
- ☐ the written form has not been furnished or does not comply with the standard.
- ☐ the computer readable form has not been furnished or does not comply with the standard.

V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)

Yes: Claims

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	No:	Claims	1,16,19
Inventive step (IS)	Yes:	Claims	
	No:	Claims	2-15,17,18
Industrial applicability (IA)	Yes:	Claims	1-19
	No:	Claims	

2. Citations and explanations
see separate sheet

VII. Certain defects in the international application

The following defects in the form or contents of the international application have been noted:
see separate sheet

VIII. Certain observations on the international application

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:
see separate sheet

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT - SEPARATE SHEET**

International application No. PCT/GB00/02226

1. The application comprises 2 independent apparatus claims (claims 1 and 19). The subject-matter of the application is not such as to make it necessary to have more than one independent apparatus claim. Therefore, in order to comply with Art. 6 PCT (conciseness), one of the above claims should have been selected as the single independent claim and the remaining claims be made appendant thereto.

The claims on file do not meet the requirement of conciseness (Art. 6 PCT).

2. The independent apparatus and method claims 1,16 and 19 are so loosely worded that each of the X- and Y- documents cited in the Search Report is novelty destroying since each of the known devices has a vacuum conduit with an inlet and an exhaust, the conduit being arranged adjacent an area of anaesthetic release (US-A-4053 604 (D1), Fig.1, US-A-5 099 792 (D2), conduit 26, US-A-4 332 244 (D3), conduit 20, US-A-4 949 714 /D4), vacuum tubing 18).

Hence, the subject-matter of these independent claims does not meet the requirement of novelty (Art. 33(2) PCT).

3. The features of the dependent claims 2-15 and 17,18 are either disclosed in one the X-Y- documents (see the Search Report) or they merely define minor constructional modifications. Such features are not novel or at least not inventive (Art. 33(3)).

4. Claims 20 and 21 relate to the figures and therefore do not meet the requirement of Rule 6.2 (a).

5. The independent claim has not been worded in the two-part form incorporating in its pre-characterising portion the features disclosed in the closest prior art (Rule 6.3 (b), see the decision of the Board of Appeal T 13/84).

Depending on the features incorporated into any new claim 1, one of the X-documents cited in the Search Report should have been chosen as the closest prior art.

6. In order to be able to assess the question of inventive step, the technical problem solved by the characterising features of the new claim 1 compared to the closest prior art should have been indicated (Rule 5.1 (a) (iii)).

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7. Reference signs should have been used throughout the claims (Rule 6:2 (b)).
8. The description should have been brought into line with the new claims (Rule 5.1 (a) iii)).
9. The X- and Y- documents cited in the Search Report should have been indicated in the description (Rule 5.1 (a) (ii)).